UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/622,017	07/16/2003	David Heller	101-P288/P3054US1	1693

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ART UNIT	PAPER NUMBER
2142	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

	Application No.	Applicant(s)
Office Action Summary	10/622,017	HELLER ET AL.
	Examiner	Art Unit	
	MICHAEL D. MEUCCI	2142	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION..
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *31 October 2007*.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-6,8-10 and 12-42* is/are pending in the application.

     4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-6,8-10 and 12-4* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *11 February 2004* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

     a)☐ All   b)☐ Some *   c)☐ None of:

         1.☐ Certified copies of the priority documents have been received.

         2.☐ Certified copies of the priority documents have been received in Application No. _____.

         3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

     * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
     Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
     Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

1.   This action is in response to the Request for Continued Examination (RCE) filed

310 October 2007.

2.   Claims 1-6, 8-10, and 12-42 remain pending.

Claim Rejections - 35 USC § 103

3.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4.   Claims 1, 15, and 27 rejected under 35 U.S.C. 103(a) as being unpatentable over

Lysenko et al. (U.S. 7,089,319 B2) hereinafter referred to as Lysenko in view of Levy

(U.S. 2002/0052885 A1).

        a.   Regarding claims 1, 15, and 27, Lysenko teaches: (b) accessing, by a

second application program, a data communication file provided by the first application

program the first application program utilizing database data in a proprietary format, and

the data communication file being derived from the data such that data internal to the

data communication file is acquired from the media information (lines 26-30 of column

3); (c) producing, by the second application program, a user interface on the display

using data internal to the data communication file (lines 39-43 of column 3); (d)

receiving a user selection with respect to the user interface of displayed media data

extracted from the data communication file (lines 11-16 of column 2 and lines 34-36 of

column 2); (e) identifying a media content file associated with the user selection (lines

36-40 of column 2); (f) associating a media content file identified by the user selection to

the second application program (lines 24-36 of column 3).

Lysenko does not explicitly teach: (a) storing, by a first application, one or more

media content files in the data storage device; and utilizing media information about one

or more media content files. However, Levy discloses: Now, the client software

establishes a connection with a central database, and transfers to the central database

the artist and song title of each song due to its ID3 tags, that the file can be shared, and

that it is a "safe" file," (paragraph [0115] on page 7). It would have been obvious for one

of ordinary skill in the art at the time of the applicant's invention to utilize media

information about one or more media content files. "Note that the artist and song title

can be identified by the embedded data ID and a secondary database, as discussed

above," (paragraph [0115] on page 7 of Levy). It is for this reason that one of ordinary

skill in the art at the time of the applicant's invention would have been motivated to

utilize media information about one or more media content files in the system as taught

by Lysenko.

b.   Regarding claim 2, Lysenko teaches: wherein the data within the data

communication file includes a link to the media content file (lines 28-37 of column 10).

c.   Regarding claim 3, Lysenko teaches: wherein the associated media

content file is thereafter useable by the second application program (lines 45-56 of

column 8).

d.   Regarding claims 4 and 17, Lysenko teaches: wherein said associating comprises presenting the media content file at the computer system (lines 28-38 of column 10).

e.   Regarding claim 5, Lysenko teaches: wherein said associating comprises playing or displaying, within the second application program on the computer system, media content from the media content file (lines 28-38 of column 10).

f.   Regarding claims 6, 18, and 34, Lysenko teaches: wherein the user interface includes at least a menu of media items determined from data acquired from the data communication file provided by the first application program (lines 40-45 of column 5).

g.   Regarding claims 7 and 8, Lysenko teaches: wherein the user interface is produced and said method is performed by the second application (lines 24-36 of column 3 and lines 28-38 of column 10).

h.   Regarding claims 9, 19, and 31 Lysenko teaches: wherein the data communication file is a markup language document (lines 28-34 of column 10)

i.   Regarding claims 11 and 21, Lysenko teaches: wherein data within the data communication file pertains to media items managed by the first application program (lines 28-34 of column 10).

j.   Regarding claims 12, 22, and 33, Lysenko teaches: discloses that the data within the data communication file includes at least media item properties and links to storage locations for media content files containing media content for the media items (lines 28-34 of column 10).

k.   Regarding claims 13 and 23, Lysenko teaches: said producing, said

receiving, said identifying, and said associating are each able to be performed

regardless of whether the first application program is being executed by the computer

system (lines 3-19 of column 9).

l.   Regarding claim 16, Lysenko teaches: wherein the data within the data

communication file includes links to the one or more media content files (lines 28-37 of

column 10); and wherein the media content file is stored by the first program, and

thereafter the media content file is useable by the second program (see rejection of

claim 1).

m.   Regarding claim 25, Lysenko teaches: wherein the first program executes

on a first computer system, the second program executes on a second computer

system (lines 26-43 of column 3).

n.   Regarding claim 26, Lysenko teaches: wherein the data communication

file is stored on the first computer system, the second computer system, or another

computer system (lines 26-30 of column 3).

o.   Regarding claim 28, Lysenko teaches: said second application program

receives a user selection with respect to the user interface, thereby selecting at least

one media item (lines 28-37 of column 10).

p.   Regarding claim 29, Lysenko teaches: wherein said second application

program plays or displays media content from the media content file for the selected

media item (lines 24-43 of column 3).

q.   Regarding claim 30, Lysenko teaches: wherein said second application

program makes use of the media information from the data communication file or media

content from the media content file for the selected media item (lines 24-36 of column

3).

r.   Regarding claim 35, Lysenko does not explicitly teach: wherein said data

storage device further stores data forming the first media database. However, Levy

discloses: Now, the client software establishes a connection with a central database,

and transfers to the central database the artist and song title of each song due to its ID3

tags, that the file can be shared, and that it is a "safe" file," (paragraph [0115] on page

7). It would have been obvious for one of ordinary skill in the art at the time of the

applicant's invention to have the data storage device further store data forming the first

media database. "Note that the artist and song title can be identified by the embedded

data ID and a secondary database, as discussed above," (paragraph [0115] on page 7

of Levy). It is for this reason that one of ordinary skill in the art at the time of the

applicant's invention would have been motivated to have the data storage device further

store data forming the first media database in the system as taught by Lysenko.

s.   Regarding claims 36-38, Lysenko teaches: first application program

updates the data communication file whenever the first media database is updated,

changed, and when a user interface window associated with the first application

program is context switched into a foreground position (lines 26-35 of column 8).

t.   Regarding claim 39, Lysenko teaches: wherein the first application

program and the second application program operate on the same computer (lines 26-

43 of column 3).

u.   Regarding claim 40, Lysenko teaches: wherein the first application

program is a media management application (lines 23-35 of column 8).

v.   Regarding claim 41, Lysenko teaches: wherein the data communication

file is automatically produced by the first application (lines 23-35 of column 8).

s.   Regarding claim 42, Lysenko teaches: wherein the first application

program automatically updates the data communication file when the media information

utilized by the first application program changes (lines 26-35 of column 8).

5.   Claims 10, 20, and 32 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Lysenko and Levy as applied above, in view of Book et al. (U.S.

2003/0223566), hereinafter referred to as Book.

a.   Regarding claims 10, 20, and 32, Lysenko does not explicitly disclose that

the markup language document is an XML document. Book teaches that XML can be

used to create a web page (par. 88, line 11). Lysenko and Book are analogous art

because they are from the same field of endeavor of computing systems. At the time of

invention, it would have been obvious to one of ordinary skill in the art that Lysenko's

web page could be written in XML, as taught by Book. The motivation for doing so

would have been to enable Lysenko's invention to take advantage of the human

readable tags that XML provides. It is for this reason that one of ordinary skill in the art

at the time of the applicant's invention would have been motivated to use XML

documents as the markup language documents in the system as taught by Lysenko.

6. . Claims 14 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Lysenko as applied above, in view of Perkes et al. (U.S. 2002/0194601 A1)

hereinafter referred to as Perkes.

a. Regarding claims 14 and 24, Lysenko teaches: wherein said second

application program is an image or video manager and viewer (lines 26-30 of column 3);

and (claim 24 only) wherein the data communication file is stored on any of a first

program, a second program or a third program (lines 23-35 of column 8). Lysenko does

not explicitly teach: wherein said first application program is a music manager and

player. However, Perkes discloses: "The consumer's selection is automatically detected

and opens the media player required to play the type of media selected. If the

Consumer activates the particular method implemented, the Guide will launch either a

proprietary media player or any one of several widely distributed and well-known media

player formats (such as Windows Media Player, RealPlayer or Apple's QuickTime

Media Player), and display the preview of the content. For instance, if the content is a

movie or video, the guide might play highlights of that content or a content provider

supplied movie/video trailer may be shown. If the content is audio content, the guide

might play highlights of the content, such as a portion of a musical piece or speech,"

(paragraph [0071] on page 7). It would have been obvious for one of ordinary skill in

the art at the time of the applicant's invention to have the first application program be a

music manager and player. "These "teasers" would be used to encourage the

consumer to play the previewed content, thereby increasing pay per views," (paragraph

[0071] on page 7 of Perkes). It is for this reason that one of ordinary skill in the art at

the time of the applicant's invention would have been motivated to have the first

application program be a music manager and player in the system as taught by

Lysenko.

Response to Arguments

7.   Applicant's arguments, see pages 10-12 of response filed 31 October 2007, with

respect to the rejection(s) of claims 1-6, 8, 9, 12, 13, 15-19, 21-23, 25-31, and 33-42

under 35 U.S.C. 102(e) and claims 10, 14, 20, 24, and 32 under 35 U.S.C. 103(a) have

been fully considered and are persuasive. Therefore, the rejection has been withdrawn.

However, upon further consideration, a new ground(s) of rejection is made in view of

Levy as detailed above.

Minor Informalities

8.   The applicant, in amending the claims, appeared to make a typographical error

on line 2 of claim 13. It is presumed by the examiner that the "d)" after "said receiving"

should be replaced with --(d)--. Correction is required.

Conclusion

9.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Michael Meucci at (571) 272-3892. The examiner can

normally be reached on Monday-Friday from 9:00 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Andrew Caldwell, can be reached at (571) 272-3868. The fax phone

number for this Group is 571-273-8300.

Communications via Internet e-mail regarding this application, other than those

under 35 U.S.C. 132 or which otherwise require a signature, may be used by the

applicant and should be addressed to [michael.meucci@uspto.gov].

All Internet e-mail communications will be made of record in the application file.

PTO employees do not engage in Internet communications where there exists a

possibility that sensitive information could be identified or exchanged unless the record

includes a properly signed express waiver of the confidentiality requirements of 35

U.S.C. 122. This is more clearly set forth in the Interim Internet Usage Policy published

in the Official Gazette of the Patent and Trademark on February 25, 1997 at 1195 OG

89.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for published

applications may be obtained from either Private PAIR or Public PAIR. Status

information for unpublished applications is available through Private PAIR only. For

more information about the PAIR system, see http://pair-direct.uspto.gov. Should you

have questions on access to the Private PAIR system, contact the Electronic Business

Center (EBC) at 866-217-9197 (toll-free).

ANDREW CALDWELL
ADVISORY PATENT EXAMINER